



DOCKET NO.: 212969US6/jmc

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

GROUP: 2154

Keigo IHARA, et al.

SERIAL NO: 09/932,968

EXAMINER: Joo, J.

FILED: August 21, 2001

FOR: SERVER RESERVATION METHOD, RESERVATION CONTROL
APPARATUS AND PROGRAM STORAGE MEDIUM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s). No more than five (5) pages are provided.

I am the attorney or agent of record.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



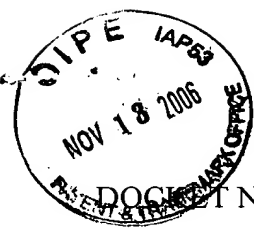
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IN RE APPLICATION OF :
KEIGO IHARA, ET AL. : EXAMINER: JOO, J.
SERIAL NO: 09/932,968 :
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METHOD, RESERVATION CONTROL
APPARATUS AND PROGRAM STORAGE
MEDIUM

REMARKS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicants respectfully request that a Pre-Appeal Brief Conference be initiated in accordance with the pilot program outlined in the Official Gazette Notice of July 12, 2005.

Claims 1-8 are pending in the application. In the Final Office Action of July 11, 2006 independent Claims 1, 6 and 8 were rejected under 35 U.S.C. §103(a) as unpatentable over Garrity et al. (U.S. Patent No. 6,230,205, hereinafter Garrity) in view of Cao (U.S. Patent No. 6,782,550) and Adriano et al. (U.S. Patent No. 6,484,210, hereinafter "Adriano"). Applicants respectfully traverse this rejection, as independent Claims 1, 6 and 8 state novel features clearly not taught or rendered obvious by the applied references, and there is no motivation or suggestion to combine the Garrity and Adriano references.

Independent Claim 1, recites, *inter alia* a method of reserving an access and resource in a distribution server, comprising:

... sending reservation request information ... from a user terminal apparatus to a reservation control apparatus *via a first network*, said reservation control apparatus determining if the

reservation request for distributing content using said distribution server during said desired service supply time period will be accepted...

transmitting content from the user terminal apparatus to the distribution server via a second network during said desired service time; and

broadcasting, by the distribution server, said content data received from said user terminal apparatus via said first network.

Independent Claims 6 and 8, while directed to alternative statutory embodiments, recite substantially similar features.

Turning to the applied references, Garrity describes that a plurality of content providers (102, 104, 104) transmit data, or content, to target users (108-134) via an operations center (136).¹ The operations center of Garrity (136) operates as the scheduler (210), video server (208) and gateway to send data from the content providers to the target users.²

Garrity, however, as clearly depicted in Fig. 1, fails to teach or suggest “sending reservation request information ... from a user terminal apparatus to a reservation control apparatus *via a first network*,” and “transmitting content from the user terminal apparatus to the distribution server *via a second network*.” Specifically, the Advisory Action acknowledges that Garrity “does not teach of sending a reservation request via first network and transmit content to the distribution server via a server.”

In view of this deficiency, the Advisory Action cites col. 2, lines 7-13 of Adriano, which describes the bandwidth differences between the telephone (uplink) and cable or satellite television networks (downlink) is bandwidth. Adriano, in general, describes a method and apparatus for allowing a personal computer to receive data from a computer network such as the Internet via a satellite or cable broadcast, while transmitting data upstream to the computer network via a telephone line.³

In light of Adriano, the Advisory Action asserts that “even though Garrity does not address a need for a second network, Adriano’s teachings would provide an obvious

¹ Garrity, Fig. 1, and col. 3, lines 33-50.

² Id., col. 3, line 58-col. 4, line 13.

³ Adriano, Abstract.

improvement in Garrity's system with a motivation that a separate network with high bandwidth would increase the speed of transmission and provide uninterrupted transmission of data to the streaming server."

However, as noted above, Adriano's system is specific to transmitting small amounts of data on an upstream low-bandwidth telephone network, and receiving broadcast data over high-bandwidth cable or satellite networks. Accordingly, as the high-bandwidth channel is a receive only channel, data is not transmitted from the client PC (120) to the network via this communications link. This is in clear contrast to independent Claim 1, which clearly recites that the user terminal apparatus sends reservation information via a first network and transmits content to be broadcast over a second network. Thus, both network provide uplink data paths.

The Advisory Action attempts to address this deficiency by stating that "although Adriano's second 'high bandwidth' network is used for downstream content, Adriano teaches that the purpose of the second 'high bandwidth' network is to increase the speed of transmission for video," and "therefore, it would have been obvious..." to use the second high-bandwidth connection to upstream content at a higher speed.

However, Adriano's system is suited for users of home PCs, and therefore the system was designed to anticipate small amounts of upstream data (user requests) and large amounts of downstream data in delivering data requested by a user.⁴ Further, the second high-bandwidth channel of Adriano is a cable or broadcast satellite channel, and therefore is not suited for transmitting upstream data. Therefore, it *is not* obvious based on the teachings of Adriano, that the second "high bandwidth" channel may be used to upstream content, as asserted in the Advisory Action, because all upstream data is transmitted via the phone modem.

⁴ Id., Background.

Further, Cao is relied upon only to address the concept of transmitting date/time of the server to the user for synchronization purposes, and also fails to teach or suggest the above-distinguished features recited in amended independent Claim 1.

Thus, none of Garrity, Adriano nor Cao, alone or in combination teach or suggest "sending reservation request information ... from a user terminal apparatus to a reservation control apparatus *via a first network*," and "transmitting content from the user terminal apparatus to the distribution server *via a second network*... and broadcasting, by the distribution server, said content data received from said user terminal apparatus via said first network," as recited in amended Claim 1.

Further, there is no motivation or suggestion to combine the teachings of Garrity and Adriano to arrive at Applicants claims. The Final Office Action states that the proposed modification would have been obvious "to improve the system of Garrity by allowing fast transmission of content for broadcasting."⁵ The record, however, fails to provide the required evidence of a motivation for a person of ordinary skill in the art to perform such modification.

Adriano provides a reason for using separate uplink (low bandwidth) and downlink (high bandwidth) network connections in a television-based Internet access system. As discussed above, it would not have been obvious to one of ordinary skill in the art to modify Adriano's system to utilize the high bandwidth connection for transmitting data upstream. Therefore, there is no motivation or suggestion to combine the references, because the upstream link in Adriano is only a low-bandwidth phone modem link that would be unsuitable for transmitting streaming video, as described by Garrity.

Further, there is no motivation or suggestion to add a second network connection to Garrity's system, whatsoever, because Garrity states that its structure already achieves the

⁵ Final Office Action at p. 4.

goal of managing the delivery of data to a number of subscribers.⁶ Garrity does not suggest that further improvement is desired, or that another feature should be added to further improve the data transmission characteristics in his system. In particular, Garrity does not suggest adding a high-bandwidth uplink channel, as asserted in the Official Action.

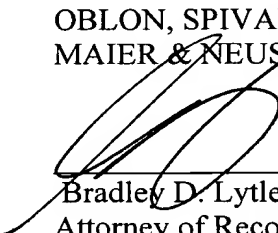
Accordingly, Applicant respectfully requests the rejection of Claims 1, 6 and 8 under 35 U.S.C. § 103 be withdrawn.

Claims 2, 5, and 7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kusaba, Garrity, and Cao, and in view of Trewitt. As discussed above, none of Garrity, Adriano nor Cao, alone or in combination teach or suggest the above differentiated features recited in the pending independent Claims. Likewise, Trewitt fails to remedy these deficiencies, and therefore, none of the cited references, neither alone or in combination, teach or suggest Applicant's Claims 2, 5 and 7, which include the above noted features by virtue of dependency.

Consequently, in view of foregoing comments, it is respectfully submitted in the invention defined by Claims 1-8 is definite and patentably distinguishing over the applied references. The present application is therefore believed to be in condition for formal allowance and an early and favorable action to that affect is requested.

Respectfully submitted,

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⁶ Garrity, Background.